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COMPULSORY COMPENSATION FOR INJURED WORKMEN

DANIEL L. CEASE

I will not attempt to consider the legal aspects of compulsory compensation other than to assert that the liability laws leave the burden of accident and death just where it falls, that administration of the law has been in the direction of strengthening the defenses of the employer and in the protection of property rights as against personal rights. Our liability laws are obsolete, judge made, unfair, and demand a drastic change that will give a modern and humane application to the law of the killed and wounded.

It is customary to aver that compensation for injury or death will go a long way to reduce casualties, meaning that employers will install safety devices and exercise greater care in the operation of dangerous machinery, but I feel certain that even with assured compensation and the most perfect safety devices there will always be a terrible loss of life and limb. We have reached that stage in industry of which it can be said we have gone "output mad." Every scientific means, every mechanical device, has been employed as an aid to production, and with it the man has been shifted to the high speed which reduces the efficiency of safety devices for it places the entire question of safety automatically upon the device. The man cannot spare the time strictly to obey the rules laid down for his protection, but despite that fact when he is injured he usually is charged with negligence.

I almost wish that my paper had been confined exclusively to the specific rules for safety that are supposed to be in operation on certain of our railways. These rules are for the legal protection of the companies, and it is not intended the employees will observe them literally. They really are forced on the employee as a condition of employment for the purpose of taking away his defenses in case of injury, the federal law to the contrary notwithstanding, also to lead the public to believe that the railway employee is careless and indifferent of his personal safety; and they run counter to the insistent demand from the railway companies to have yards clear and trains moved regardless of the safety of the employees. These rules are used as common law defenses against liability.

I beg your indulgence for a moment to quote a paragraph from an official railway bulletin, of the protection to the employee kind, and to quote from a letter issued by a superintendent to his employees which told them exactly what was expected from them regardless of the safety bulletin. I quote from the bulletin:

".....Employees before they attempt to make couplings or to uncouple will examine and see that the cars or engines to be coupled or uncoupled, couplers, drawheads, and other appliances connected therewith, ties, rails, tracks, and roadbed are in good safe condition.They must exercise great care in coupling and uncoupling cars. In all cases sufficient time must be taken to avoid accident or personal injury."

This rule is for the legal defense of the company; now note the rule for the men:

"Entirely too much time is being lost, especially on local trains, due to train and enginemen not taking advantage of conditions in order to gain time doing work, switching, and loading and unloading freight. Neither must you wait until train stops to get men in position. It is also of the utmost importance that enginemen be alive, prompt to take signals, and make quick moves. In this respect it is only necessary to call your attention to the old adage, which is a true one, that when train or enginemen do not make good on local trains it thoroughly demonstrates those men are detrimental to the service as well as to their own personal interests, and such men instead of being assigned to other runs should be dispensed with. I am calling your attention to these matters with a view of invigorating energy and ambition, in order that your families who are dependent on you to make a success shall not some day point the finger of scorn at you, and that the public may not be able to say that you lost your position due to lack of energy and interest in your own personal welfare for which you can consistently place the responsibility on no one but yourself."

Compare the bulletin with the letter and note the difference. If other evidence were missing this would be sufficient to substantiate the statements that safety rules are made for the legal protection of the company, while the opposing rules for dispatching work jeopardize the safety of the employees. I say to you now that if railway employees observed the companies' rules for safety the railway lines of the United States would be within twelve hours as hopelessly congested as they possibly could be if a general strike had been in successful operation for a week.

Here then is the application of the usual safety rule intended

for the defense of the company and public information, and with it the personal admonition to the employee to take the risks of the business as they come to him, not to lose time, not to sacrifice speed and efficiency for safety, and urging him to remember that if he does not make good he will lose his job and be humiliated by the "finger of scorn" pointed at him by a starving family. He takes the chance, the finger of scorn does not humiliate him, but he pays the price.

Fortunately for this argument we have statistics of railway casualties, and, taking the past year, for which a report has been made, we find that nine men were killed each twenty-four hours and that one was injured or killed every seven minutes. To be specific as to casualties as they occur in the engine, train, and yard service, is to say that one man was killed for each two hundred and five employed and one was injured for every nine employed. The records of the Brotherhood of Railroad Trainmen show 16.4 claims paid per thousand insured; the Order of Railway Conductors pays twelve claims per thousand insured, the Brotherhood of Locomotive Engineers pays eight claims per thousand insured, the Brotherhood of Locomotive Firemen pays seven claims per thousand insured and the Switchmen's Union pays at the rate of 15.5 claims per thousand of insured. And two thirds of these claims are for accidents. The working life of a brakeman is estimated at only seven years.

What do the railways pay? No one knows, but it is reasonable to say that 10 per cent of injuries and deaths for which compensation is paid is the answer and the average amount paid is low.

The same rules for the defense of the employer are in operation in every industry.

The miners claim that four men are killed in America to one in Europe, and it is admitted that mining ordinarily and normally ought to be accompanied with less danger here than abroad.

Structural iron and steel workers and electrical workers stand a heavy loss in death and disability only to be guessed at in the total, for we lack full statistics covering these occupations.

It has been estimated that annually 4000 Pennsylvania miners are killed or injured and the records of Allegheny County, in which the great iron and steel industries of the Pittsburgh District are located, showed 10,000 casualties a year, a large proportion of which were deaths or total disablements and 80 per cent of which were inflicted upon men under forty years of age.

Few of these casualties have hope of recovery because no one was at fault, and the others have been divided among a half dozen causes few of which contained hope of recovery from the courts. The great heart of the corporation, however, arbitrarily provides sometimes for death or injury, paying as high as \$200 for the loss of a leg or both eyes, and much lower amounts, which usually do not pay the doctor's bill, for other losses.

A system of almost perfect mechanical production has been installed and the man must keep pace with it. So much must be produced per man, per machine, per hour; and the man knows if he falls below the minimum of production he will lose his job; and a job is a job even in this land of opportunity. He knows the inexorable rule. The result is that to change a gear, shift a belt, adjust a feed, or any one of the thousand ways offered the man to take a chance and keep his machine going without loss of time, is undertaken at the price of safety; and he pays the price. The employer pays nothing.

The occupational diseases that must be assumed by the employee, of which there is really no record, must be considered among the casualties, although they have little hope of compensation. All of them add to the burden of general human misery arising from suspended or decreased wages.

So we say advisedly, until sane rules of employment regulate industry, until it costs more to kill a man than to protect him, until the man and the machine are brought closer to the relative endurance of each other and safety devices are installed that automatically will prevent accident, we shall have an annual casualty roll that will warrant a repetition of the statement: the mines are stained with the blood of their victims; every skyscraper is cemented with the blood and brawn of its builders; every large enterprise is baptized in the blood of its workmen. Does it not appeal to you that there is an underlying cause other than negligence that is responsible for the casualty record? That a man works for another does not mean that he is indifferent to physical and mental pain.

The general toll of industry is estimated at anywhere from one half million upward annually, but we are unable to do more than estimate, for outside of railways no reliable statistics are available. The major portion of the killed and injured are young men. America has fixed the dead line of labor many years below that established as the earning capacity years of Europe, wherein

we find our principal business competition. This means that in America the results of injury have to be reckoned with many more years per man than elsewhere.

In a general way we realize what it means to the man who is left helpless and hopeless. One can in a way imagine the physical suffering which we believe can in part be compensated, but God alone knows the depths of mental despair to which the one-time physically perfect man is plunged when disability overtakes and threatens his earning capacity, for in this day he knows when he cannot work he becomes a pauper. I have seen strong men weep like children when they were out of work temporarily and their families were forced to limited living. What must it mean then to the one who in a moment knows he is done forever? If time permitted I could tell you of the last words of men who met death with only duty on their minds; who remembered their responsibilities even with the death sweat upon their brow; who fearlessly met the grim destroyer with full consciousness of all that it meant to them, and the only expression of personal concern aside from duty done was the heart-breaking question, What will become of my wife and the kiddies?

Is it right for that wife and those children to be thrown upon the world without a dollar or a home other than the charity institution? Society through the employer has demanded its sacrifice, therefore the human wreckage, the only unrewarded factor of our national business supremacy, should be recompensed.

We have been so busy making money that we have forgotten the real man who made it, forgotten his family, neglected ordinary rules for national welfare and safety until we are overwhelmed by the enormity of our industrial offenses, and we hope shamed into an effort toward forcing restitution. I say "forcing" for it never will be made otherwise.

We ask that every human sacrifice be fully compensated, without having to wait for the delays and uncertainties of the courts; we want the injured not to have to suffer mental pain with his physical ills for fear of the future of himself and family; we demand medical, surgical, and hospital attention; we want certainty of responsibility fixed for the employer, with certainty of compensation fixed for the employee; we want the injured employee and his family to remain just as useful members of society as they were before the industrial sacrifice was made. We want the defenses of negligence and assumption of risk eliminated and the

professional risk to rest upon the profession, not upon the injured man, so that liability will not offer its present invitation to fight, and that compensation will be acceptable to both parties. This is, I believe, the only way we can enforce compensation.

It is not right to permit the employer to continue in his defense of "professional risk" and to hide behind it to the exclusion of the rights of his employees, nor for society through its various charities to assume the burden of protecting the families of those who have laid down their lives or been hopelessly maimed in his service. It is inhuman to compel the employee to accept the responsibility for accident in exchange for the opportunity to work. That responsibility belongs exclusively to the employer.

American industry has been protected in every way possible by law and court decision, but the employees, the foundation of American industry, have been thrown aside as scrap and their bruised or broken bodies added to the long roll of human wreckage to attest to the unrecompensed sacrifices made in its behalf.

I emphatically stand for a national compensation act, to care for employees who can be protected by the federal government, and for the enactment of uniform state legislation that will compensate for the loss of life and limb which thus far has been given away for the right to work. It may sound coldly calculating to set a cost on life and limb; it even may appear to be fixing the price for a continuance of human butchery; it may seem to be inviting injuries under certain conditions, but if life and limb must be sacrificed restitution must be made. Conceding, in part, these objections which have little foundation in fact, every other reason is for immediate, permanent, and commensurate relief which should not in any sense be considered an unfair cost to the employer or a charitable proposition, but recognized purely as a "part of the day's wages."